

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK

BLACK LOVE RESISTS IN THE RUST, *et al.*,  
individually and on behalf of a class of all others  
similarly situated,

Plaintiffs,

v.

CITY OF BUFFALO, N.Y., *et al.*,

Defendants.

No. 1:18-cv-00719-CCR

**PLAINTIFFS' MOTION, ON CONSENT,  
TO MODIFY THE SCHEDULING ORDER**

With the consent of Defendants, Plaintiffs respectfully move for an extension of ninety days to the scheduling deadlines presently set by the Court's scheduling order. *See* ECF Nos. 102, 107. The new proposed schedule is as follows:

| <b>Deadlines</b>   | <b>Current Date</b> | <b>Modified Date</b> |
|--|---------------------|----------------------|
| Deadline for completion of fact discovery                                  | December 8, 2021    | March 8, 2022        |
| Deadline for motions to compel discovery                                   | December 8, 2021    | March 8, 2022        |
| Deadline for service of Initial Expert Reports                             | February 1, 2022    | May 1, 2022          |
| Deadline for service of Rebuttal Expert Reports                            | March 1, 2022       | June 1, 2022         |
| Deadline for completion of all expert discovery (incl. expert depositions) | March 22, 2022      | June 22, 2022        |
| Deadline for Dispositive Motions   | April 25, 2022      | July 25, 2022        |

In support of this Motion, Plaintiffs state:

1. Under the present schedule, the deadline for completion of fact discovery and any accompanying motions to compel is December 8, 2021. The Court has set additional deadlines, leading to a dispositive motion deadline of April 25, 2022.

2. Depositions have recommenced. The Court is aware from previous filings as to the reasons for the hiatus in depositions in this matter. Some of those reasons have been resolved with the massive ESI production in May; others are the subject of the pending motion to compel (ECF 111).

3. The deposition of Lt. David Wilcox was taken and completed on November 4, 2021. The deposition of former Commissioner Daniel Derenda was commenced on November 9 but has not been completed. The deposition of Capt. Philip Serafini was scheduled for November 8 but had to be adjourned due to a death in examining counsel's family. Plaintiffs expect to conclude the pending depositions and take one additional deposition by the end of the year, with the pace to pick up thereafter. Nevertheless, a full deposition program cannot be put in place until the pending motion to compel (ECF 111) is resolved and Plaintiffs receive such additional production as may be ordered.

4. It unfortunately remains true that this extension request will likely not be the last one, but for the reasons set forth above, good cause exists to justify this request to extend the discovery and dispositive motion deadlines by three months.

5. Accordingly, Plaintiffs, with the consent of Defendants, respectfully request the modifications set forth above.

WHEREFORE, Plaintiffs respectfully request that the Court modify the schedule as proposed.

Dated: November 29, 2021

Respectfully Submitted,

[Signatures Follow]

/s/ Keisha A. Williams

Joseph Keleman  
Keisha Williams  
WESTERN NEW YORK LAW CENTER  
Cathedral Park Tower  
37 Franklin Street, Suite 210  
Buffalo, NY 14202  
Tel: (716) 828-8415  
Fax: (716) 270-4005  
jkeleman@wnylc.com  
kwilliams@wnylc.com

/s/ Edward P. Krugman

Claudia Wilner  
Edward Krugman  
Anjana Malhotra  
NATIONAL CENTER FOR LAW  
AND ECONOMIC JUSTICE  
275 Seventh Avenue, Suite 1506  
New York, NY 10001  
212-633-6967  
wilner@nclej.org  
krugman@nclej.org  
malhotra@nclej.org

/s/ Darius Charney

Chinyere Ezie  
CENTER FOR CONSTITUTIONAL RIGHTS  
666 Broadway, 7<sup>th</sup> Floor  
New York, NY 10012  
212-614-6475  
CEzie@ccrjustice.org

/s/ Jordan Joachim

Jordan Joachim (admitted *pro hac vice*)  
COVINGTON & BURLING LLP  
620 Eighth Avenue  
New York, NY 10018  
212-841-1000  
jjoachim@cov.com

*Attorneys for Plaintiffs*

**CERTIFICATE OF SERVICE**

I hereby certify that on November 29, 2021, the foregoing document was filed with the Clerk of the Court and served in accordance with the Federal Rules of Civil Procedure, and/or the Western District's Local Rules, and/or the Western District's Case Filing Rules & Instructions upon all counsel registered through the ECF System.

/s/ Edward P. Krugman